

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	File Number EB-03-KC-190
	)	
Eagle Broadcasting, Inc.	)	NAL/Acct. No.200432560003
Owner of Antenna Structures located in	)	
Miami, Oklahoma	)	FRN: 0003 7383 90
	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released: January 20, 2004**

By the Enforcement Bureau, Kansas City Office:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find Eagle Broadcasting, Inc. ("Eagle Broadcasting"), owner of three unregistered antenna structures located at AM radio station KVIS licensed to Miami, Oklahoma<sup>1</sup>, apparently liable for a forfeiture in the amount of three thousand dollars (\$3,000) for the repeated violation of Section 17.4(a) of the Commission's Rules ("Rules").<sup>2</sup> Specifically, we find Eagle Broadcasting apparently liable for failure to register its antenna structures with the Commission.

**II. BACKGROUND**

2. On December 4, 2003, an agent of the FCC Enforcement Bureau's Kansas City Office ("Kansas City Office") inspected the antenna structures located at 36° 53' 30.6" North Latitude and 94° 47' 10.6" West Longitude, 36° 53' 24.2" North Latitude and 94° 47' 07.5" West Longitude and 36° 53' 16.6" North Latitude and 94° 47' 03.7" West Longitude, in Miami, Oklahoma. The structures were painted and lighted and utilized for the transmission of radio frequency energy. The Commission's Antenna Structure Registration database showed no record of these structures having been registered.

3. On December 5, 2003, the agent interviewed the station manager of Eagle Broadcasting, who verified that Eagle Broadcasting, Inc. owned the antenna structures since about 1991. The manager was aware of the requirements that the towers be registered and believed the previous station manager had done so. The manager also verified that the antenna structures were 276 feet in height and being utilized for the transmission of radio frequency energy as part of the KVIS operation.

**III. DISCUSSION**

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<sup>1</sup> Eagle Broadcasting, Inc. is licensee of radio station KVIS and owns the antenna structure utilized by the station.

<sup>2</sup> 47 C.F.R. § 17.4(a).

4. Section 17.4(a) of the Rules provides that, effective July 1, 1996, owners of any existing antenna structures that require notification to the Federal Aviation Administration (“FAA”) must register the structure with the Commission. Section 17.4(a)(2) of the Rules provides that, effective July 1, 1998, owners of an antenna structure that had been assigned painting or lighting requirements prior to July 1, 1996, must register the structure with the Commission. Eagle Broadcasting’s antenna structures required notification to the FAA because all the structures exceeded 200 feet in height. Therefore, Eagle Broadcasting’s three antenna structures required Commission registration.

5. Based on the evidence before us, we find Eagle Broadcasting, Inc. repeatedly<sup>3</sup> violated Section 17.4(a) of the Rules by failing to register its three antenna structures with the Commission since at least January 1, 2003 until at least December 5, 2003.

6. Pursuant to Section 1.80(b)(4)<sup>4</sup> of the Rules, the base forfeiture amount for failure to register the antenna structure (failure to file required forms or information) is \$3000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D)<sup>5</sup> of the Communications Act of 1934, as amended (“Act”), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. Considering the entire record and applying the factors listed above, this case warrants a \$3,000 forfeiture.

#### **IV. ORDERING CLAUSES**

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act<sup>6</sup> and Sections 0.111, 0.311 and 1.80 of the Rules<sup>7</sup> Eagle Broadcasting, Inc., is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of three thousand dollars (\$3,000) for repeated violation of Section 17.4(a) of the Rules by failing to register its three antenna structures with the Commission.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NAL, Eagle Broadcasting, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this NAL

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<sup>3</sup> The term “repeated,” when used with reference to the commission or omission of any act, “means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”

<sup>4</sup> 47 U.S.C. § 1.80(b)(4).

<sup>5</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>6</sup> 47 U.S.C. § 503(b).

<sup>7</sup> 47 U.S.C. § 0.111, 0.311 and 1.80

under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>8</sup>

10. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12<sup>th</sup> Street S.W., Washington, D.C. 20554, Attn: Enforcement Bureau-Spectrum Enforcement Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Spectrum Enforcement Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

13. IT IS FURTHER ORDERED THAT a copy of this NAL shall be sent by regular mail and Certified Mail Return Receipt Requested to Eagle Broadcasting, Inc., P. O. Box 1555, Miami, Oklahoma 74355.

#### FEDERAL COMMUNICATIONS COMMISSION

Robert C. McKinney  
District Director, Kansas City Office  
Enforcement Bureau

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<sup>8</sup> 47 C.F.R. § 1.1914.

Attachment